

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

| | | |
|------------------------------|---|------------------|
| ORAL WHARWOOD and | : | |
| YVONNE WHARWOOD, h/w | : | |
| 111 Banbury Avenue | : | |
| North Wales, PA 19454 | : | |
| | : | |
| Plaintiffs | : | |
| | : | |
| v. | : | CIVIL ACTION NO. |
| | : | |
| DENNIS C. MATLACK | : | |
| 211 Broadway Avenue | : | |
| Horsham, PA 19044 | : | |
| | : | |
| and | : | |
| | : | |
| UNITED STATES POSTAL SERVICE | : | |
| 600 Enterprise Drive | : | |
| Horsham, PA 19044 | : | |
| | : | |
| Defendants | : | |

NOTICE OF REMOVAL OF CIVIL ACTION FROM
STATE COURT TO THE UNITED STATES DISTRICT COURT

Pursuant to 28 U.S.C. §§ 1441 and 2679(d), the United States of America, on behalf of defendants Dennis C. Matlack and the United States Postal Service, removes this action to the Federal District Court for the Eastern District of Pennsylvania. In support thereof, the United States of America avers the following:

1. Plaintiffs Oral Wharwood and Yvonne Wharwood filed a Complaint in the Philadelphia County Court of Common Pleas on June 13, 2002. See copy of Complaint attached hereto as Exhibit "A".

2. Apparently the Summons and Complaint against the defendants was served thereafter.

3. The United States Attorney's Office was not served with a copy of the Summons and Complaint against the defendants.

4. Defendant Dennis C. Matlack is an employee of the United States Postal Service, which is a corporation of the United States. This action arises from defendant Matlack's operation of a motor vehicle pursuant to official business. See Attachment B. Accordingly, pursuant to the provisions of the Federal Tort Claims Act, 28 U.S.C. § 2671 et seq. and 28 U.S.C. §§ 1441(a) and 1442(a)(1), the entire action may be removed to this Court.

5. A copy of this Notice is being filed with the Prothonotary of the Court of Common Pleas for the Philadelphia County, Pennsylvania, and is being sent to all adverse parties pursuant to 28 U.S.C. § 1446(d).

6. No bond is required to accompany this Notice as it is filed on behalf of the United States.

7. This Notice of Removal is signed pursuant to Rule 11 of the Federal Rules of Civil Procedure.

Respectfully submitted,

PATRICK L. MEEHAN
United States Attorney

JAMES G. SHEEHAN
Assistant United States Attorney
Chief, Civil Division

PATRICIA D. GUGIN
Assistant United States Attorney

CERTIFICATION OF SCOPE OF EMPLOYMENT

____I, PATRICK L. MEEHAN, the undersigned United States Attorney, pursuant to the provisions of 28 U.S.C. Section 2679(d) and by virtue of the authority vested in me by the Attorney General of the United States under 28 C.F.R. Section 15.3(a), hereby certifies that: 1) I have read the Complaint in the above-captioned action; and, 2) to the best of my knowledge, information, and belief, based upon information supplied to me in my official capacity, defendant Dennis C. Matlack was an employee of the United States by and through the United States Postal Service and was acting within the scope of his duties and employment at all times pertinent to the allegations relating to him in the Complaint filed in this action, which action was initially filed in the Court of Common Pleas, Philadelphia County, June Term 2002, No. 1656.

PATRICK L. MEEHAN
United States Attorney

Date: July 11, 2002

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Notice of Removal has been served this date by first class mail, postage prepaid, upon the following:

Brian McVan, Esquire
McVAN & MEAKIM
162 South Easton Road
Glenside, PA 19038

PATRICIA D. GUGIN
Assistant United States Attorney

Date: July 11, 2002